

Report to: Cabinet

Date: 5th December 2018

Title: Housing Delivery Programme

Report of: Ian Fitzpatrick, Director of Regeneration & Planning

Cabinet member: Councillor Ron Maskell

Ward(s): All

Purpose of report: The report provides an update on the successful use of capital funds and sets out proposals for the Council's established housing investment vehicles to allow those vehicles to purchase residential accommodation to assist the Council meet its strategic housing agenda and to note an increase in the pipeline of new build affordable housing acquisitions from private developers.

Decision type: Key Decision

Officer recommendation(s):

- (1) To agree that the Council makes a loan facility available of up to £10m on market terms to Lewes Housing Investment Company Ltd (LHICL) for the purpose of enabling the company to purchase residential accommodation for commercial purposes under a dedicated programme.
- (2) To delegate authority to the Chief Finance Officer in consultation with the Lead Cabinet members for Housing and Finance to agree the whole scheme lending parameters (including overall programme(s), levels of development and individual loan tranches) for purchases by LHICL for the programme outlined at Recommendation 1
- (3) To agree that the Council makes a loan facility available of up to £2.5m on market terms to Aspiration Homes LLP (AHLLP) for the purpose of enabling the company to purchase residential accommodation for affordable purposes under a dedicated programme.
- (4) To delegate authority to the Chief Finance Officer in consultation with the Lead Cabinet members for Housing and Finance to agree the whole scheme lending parameters (including overall programme(s), levels of development and individual loan tranches) for purchases by AHLLP for the programme outlined at Recommendation 3.

(5) To authorise the Director for Legal and Democratic Services to ensure that a “Funding Agreement” pursuant to a “Deed of Entrustment” is entered into by AHLLP with the Council so that Right to Buy receipts are appropriated in accordance with legislative requirements and the retention agreement with Government in relation to “social housing”. To give delegated authority to the Director of Regeneration and Planning to determine the terms of such agreement(s).

(6) To note an increase in the planned pipeline of new build affordable housing acquisitions from private developers, as outlined in the April 2018 Cabinet Report entitled “Housing Development Update”.

(7) To approve as a Restricted Matter under the LLP Agreement, the making of a loan facility by Eastbourne Borough Council of up to £2.5m on market terms to Aspiration Homes LLP (AHLLP) for the purpose of enabling the company to purchase residential accommodation for affordable purposes under a dedicated programme.

Reasons for recommendations:

(1) To provide residential accommodation to assist the Council meet its wider strategic housing agenda.

(2) To increase the variety, availability and accessibility of housing and home ownership.

(3) To generate additional income revenue streams to the Council through strategic property investment.

(4) For Aspiration Homes LLP to use Right to Buy receipts to fund new affordable housing the necessary legal agreements need to be in place to allow this and these must be used in accordance with the terms of our right to buy receipt retention agreement.

(5) To update on the successful use of approved funds and future capital requirements.

Contact Officer(s):

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1 Background

1.1 In November 2016 Cabinet approved the establishment of a Lewes District Council (LDC) wholly owned housing investment company and a joint housing investment partnership with Eastbourne Borough Council (EBC) to progress on housing and economic development.

- 1.2 In June 2017 Aspiration Homes LLP (AHLLP) was incorporated as a limited liability partnership, forming the joint housing investment company. In July 2017 Lewes Housing Investment Company Ltd (LHICL) was incorporated as a private company limited by shares, with LDC as sole shareholder.
- 1.3 Cabinet considered how LHICL and AHLLP could help meet its strategic aims to deliver housing, shape communities, enable place-making and support local regeneration.
- 1.4 Cabinet previously approved the following loan facilities to progress a pipeline of larger commercial and affordable mixed tenure schemes as part of a more ambitious programme beyond the capacity of the HRA:
- LHICL: Larger commercial schemes - £10m
 - AHLLP: Larger affordable schemes - £10m

This full loan facility was increased to £35m by Cabinet in April 2018 to take account of the evolving new build development pipeline.

- 1.5 The loan facilities granted are targeted to delivering larger development schemes. Although those schemes are crucial to the wider programme the Council is unable to capitalise on the opportunities of the local property market through the acquisition of readily available street properties.
- 1.6 This report seeks approval for loan facilities of up to £12.5m to allow the acquisition of individual, residential street properties to meet the Council's strategic housing agenda, generate additional income revenue streams and increase the amount and variety of targeted mixed tenure housing.
- 1.7 The loan facilities would allow LHICL and AHLLP to specifically purchase residential properties on the open market, including former Council homes sold as part of the Right to Buy.

2 Strategic housing aims

- 2.1 There is currently a very strong demand in the district for all tenures of housing. At the time of writing this report LDC has over 850 active households on the housing waiting list, all with an identified housing need. Officers expect this figure to only increase over time.
- 2.2 There are also a large number of barriers into the private rented sector (PRS), specifically:
- Affordability – PRS accommodation is typically very expensive, specifically relative to average household income(s).
 - Availability – There is relatively low supply : demand ratio. Officers also find there can be a lot of prejudice and stigma toward benefit claimants.
- 2.3 In addition to increasing housing the Council also seeks to promote sustainable

economic growth and regeneration by targeting areas of deprivation and low economy. This can be achieved in part through the improvement of property, both in new investment and the regeneration of vacant and/or poor quality sites, possibly not even owned by the Council.

- 2.4 The purchase of suitable residential properties by LHICL and AHLLP for mixed tenure rental will help assist households to secure accommodation within the PRS relative to need and help reduce costs to the Council's housing team by providing throughput to suitable accommodation.
- 2.5 During these challenging times the Council is procuring innovative methods of increasing income generation through new business and revenue streams. Through making long-term loans to the respective vehicles on market terms (and at market rates) the interest can be paid into the General Fund. The cost of servicing this borrowing will be less than the interest payments received from the companies, generating a net income stream.
- 2.6 The private market can however be very competitive and, at times, fast paced. Without the flexibility to progress schemes using the approved loan facilities in place the Council is at risk of missing out on key opportunities to competitors.

3 Investment principles and viability

- 3.1 In order to ensure purchases are consistent and in-line with the Council's wider strategic objectives the following core principles are proposed for street property purchases:

- Although the principle aim is to provide additional housing to address local need, the vehicles should not make overall losses
- Not to purchase multiple properties within a single concentrated area to reduce any potential negative impact upon that area and its residents
- To maintain a social conscience when considering acquisitions
- Balance the letting of properties acquired between local housing allowance rates (LHA), affordable rents up to 80% of the market and full market rents wherever possible and in-line with the aims of the company and partnership
- Ensure regular monitoring and review of the process is demonstrated to ensure it is working for real people and driving the project(s) forward

- 3.2 A number of assumptions are made for each financial appraisal when establishing viability as follows:

- To model acquisitions with all capital costs assumed in Year 1
- Adopt long term interest rates at 4.5%
- Management fee allowances of £350 per unit per annum
- Maintenance allowances of £450 per unit per annum
- Two week void and bad debt allowances at £300 per unit per annum

- Reserve fund allowances of £400 per unit per annum as standard.
- Service charge allowance (for long leasehold flats)

3.3 The assumptions will be flexible and regularly reviewed to appropriately adapt to the built environment, the property market and LDC as lender.

3.4 The following tables below demonstrate the appraisal model(s) and process(es) to be used under the respective programme(s):

Table 1: LHICL - Market rent investment 2 bedroom long-leasehold flat (e.g. Newhaven)	
Purchase price	£140,000
Purchase costs and works (SDLT, legal fees, valuation etc.)	£7,000
Total purchase costs	£147,000
Interest on loan @ 4.5%	£6,615
Management / maintenance	£1,000
Voids and bad debts	£300
Reserve fund	£400
Total annual rent (£750 PCM)	-£9,000
Annual surplus	-£685

3.5 Using the above example LHICL would make a surplus of £685 per annum on the purchase after the assumed costs. The company would also see an increase in capital asset values.

3.6 With a loan facility granted to the company of up to £10m, LHICL could successfully acquire up to 50-60 units from the private market over a 6-12 month period. This could generate surpluses to the company of anywhere up to £20k based on the example above. These surpluses would be reinvested by the company. The loan could also generate an income to the Council's General Fund of up to £200k per annum.

3.7

Table 2: AHLLP - Affordable rent investment 2 bedroom long-leasehold flat (e.g. Newhaven)	
Purchase price	£140,000

Purchase costs and works	£7,000
Sub-total purchase costs	£147,000
30% funding from RTB receipts	-£44,100
Total purchase costs	£102,900
Interest on loan @ 4.5%	£4,630
Management / maintenance	£1,000
Voids and bad debts	£300
Reserve fund	£400
Total annual rent	-£7,200
Annual surplus	-£870

3.8 Using the above example AHLLP would:

- i) make a surplus of £870 per annum on the purchase after the assumed costs,
- ii) generate an increase in capital asset value,
- iii) increase the provision for accessible affordable housing.

3.9 With a loan facility granted to the LLP of up to £2.5m, AHLLP could successfully acquire up to 10-15 affordable units from the private market over a 6-12 month period. This could generate surpluses to the LLP of anywhere up to £10k based on the example above. These surpluses would be reinvested by the LLP. The loan could also generate an income to the Council's General Fund of up to £50k per annum.

4 New-build acquisitions pipeline

4.1 The Cabinet Report April 2018 included provisions for AHLLP and LHICL to borrow funds to acquire affordable housing from private developers where there is a planning requirement for them to be delivered.

4.2 The Cabinet Report indicated an expected total of 50 new affordable homes to be acquired in the first year at a cost of approximately £12m. However, in the 8 months from April to November 2018 there were 70 affordable homes in the overall development pipeline and potential to rise to 100 homes by the end of the financial year.

4.3 The approved loans will cover this scale of programme within 2018/19, but the Council will need to consider the scale of this section of the development

programme in future years.

5 Key Risks

- 5.1 Under this proposal the Council would lend funds to purchase properties within set parameters to be defined by the Council as set out with the report recommendation(s).
- 5.2 The Council's key risk(s) relates to the company and partnerships' ability to meet the loan payments. Each loan provided to LHICL or AHLLP will have a legal charge in LDC's benefit in the event of any default.
- 5.3 The key risks for the vehicles include:
- i) Effective rent collection
 - ii) The ability to efficiently let properties
 - iii) The general management operating within the viability assumptions – i.e. repairs levels, voids, bad debts and management costs (as assumed)
- 5.4 As noted above, demand for mixed tenures of accommodation is strong. Rent levels, management and maintenance and void times will be set using local knowledge and experience obtained in managing the Council's housing stock. Each risk will be fully assessed as part of the finalisation of the lending parameters.
- 5.5 Each property or land purchase will be subject to an appraisal and red book valuation and a full survey to ensure the Council is obtaining value for money, in addition to fulfilling its wider strategic objectives. The legal risks will be assessed as the project progresses as part of the due diligence process.

6 Staffing and resource

- 6.1 There are no specific staff implications. The acquisition and future management of property will be within current resources. A fee is built into the financial modelling to meet the management costs.

7 Environmental, community safety, Human Rights, youth, anti-Poverty.

- 7.1 The acquisition of properties will give the Council greater ability to deliver its wider role of community wellbeing and promote a supply of good quality well managed accommodation. It will help address the low wage economy and the wider economy by encouraging investment in new businesses, homes and the environment.

8 Financial implications

- 8.1 The Council can make long term loans to LHICL and AHLLP enabling them to fund their acquisitions and on-costs. A Loan Facility Agreement is already in place with LHICL and a Funding Agreement with AHLLP, both setting out the core principles of any loan. It is recommended that the terms of any loan offered would be determined by the Chief Finance Officer for AHLLP and for LHICL, in

consultation with the Lead Member for Finance. A range of factors would be considered including the duration of the loan and market interest rates at the time of the loan advance. Any loan would be secured against the property assets of the vehicle.

- 8.2 Interest paid to the Council by the company and partnership would be credited to the General Fund. The Council will need to borrow to cover these loans and any such borrowing will be undertaken in line with the Councils Treasury Management Strategy. The cost of servicing this new General Fund borrowing would be less than the interest payments received from LHICL / AHLLP, generating a net income stream for the Council.
- 8.3 Retained right to buy receipts: under an agreement with the Government, the Council has retained a share of the receipts generated under Right to Buy on condition that the amounts retained are used within a rolling three year period to part-fund the development and (currently) the acquisition of new affordable housing. Retained receipts used in this way must not exceed 30% of the capital costs. Any retained receipts not used within three years must be paid to the Government (with interest).
- 8.4 The agreement with the Government allows the Council to pass the retained receipts to another body for use in the development of affordable homes. Through this mechanism the Council could make a grant to AHLLP (a condition within the Government agreement precludes a grant payment to LHICL).
- 8.5 Robust financial appraisals in respect of the individual asset purchases, the management of ongoing expenditure and the continuous monitoring of the demand for housing need is essential to mitigate costs, voids and both capital / revenue losses.
- 8.6 It is proposed that more general delegations are made to enable the relevant programmes to be brought forward most effectively, funded as follows:
- LHICL: £10m by way of loan for the delivery of new homes at commercial rents through a dedicated “Street Acquisitions Programme”.
 - AHLLP: £2.5m by way of loan for the delivery of affordable homes and low cost home ownership, in the Lewes district and/or on joint projects with EBC, through a dedicated “Affordable Street Acquisitions Programme”, and in accordance with the LLP business plan.

9 Legal implications

9.1 Loans to LHICL and AHLLP

The Council could use the general power of competence in section 1 of the Localism Act 2011 for the proposals in this report. However the exercise of that power would be subject to the limitations and restrictions of the legislation set out below.

Under sections 24/25 Local Government Act 1988 the Council, with the

Secretary of State's ("SOS") consent, can provide any person with financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance or management (whether by that person or by another) of any property which is or is intended to be privately let as housing accommodation. Financial assistance specifically includes the provision of loans or grants. The General Consent C issued by the SOS under section 25 of the Local Government Act 1988 (Local Authority assistance for privately let housing) 2010 enables the Council to provide a loan or a grant to AHLLP or LHICL for these purposes.

9.2 Capital finance considerations

The Council has the power under section 1 of the Local Government Act 2003 (LGA2003) to borrow for any purpose relevant to its functions under any enactment or for the purposes of the prudent management of its financial affairs.

The Council has the power under section 12 of the Local Government Act 2003 (LGA2003) to invest for any purpose relevant to its functions under any enactment or for the purposes of the prudent management of its financial affairs.

Under section 3 the SOS may make regulations governing the use of the borrowing power and section 15 of the LGA 2003 requires a local authority must "have regard to" such guidance as the SOS may issue and to such other guidance as the SOS may by Regulations specify.

The SOS has made the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, S.I 2003/3146, as amended ("the Capital Finance Regulations") in relation to the exercise of the borrowing power. Paragraph 24 of the Capital Finance Regulations provides that a local authority "must have regard to" the document entitled "Treasury Management in the Public Service: Code of Practice and Cross-Sectoral Guidance Notes" published by the Chartered Institute of Public Finance and Accountancy ("CIPFA") as may be amended or reissued from time to time. CIPFA has duly issued Treasury Management Guidance.

The SOS has also issued statutory guidance on local government investments (3rd edition) effective from 1 April 2018. This is primarily about investments made under section 12 LGA2003 but also relates to borrowing for investments. The SOS view is that an investment includes covers loans made by a local authority to one of its wholly-owned companies or entities.

9.3 State Aid

The provision of loan funding or other forms of assistance to AHLLP and LHICL will be State aid compliant if in accordance with general market terms known as the the Market Economy Operator Principle ("MEOP") i.e. that a private investor of a comparable size operating in normal conditions of a market economy could have been prompted to make the investment on the terms that have been agreed.

It is possible for the council to provide grants, loan funding or other assistance

which is not on market terms provided that it complies with the European Commissions Service of General Economic Interest Decision of 20 December 2011 (“SGEI”). SGEI enables state subsidy in relation to “social housing” (which includes affordable housing in England) provided the requirements set out in that decision are met.

9.4 Use of RTB Reciepts

Right to Buy receipts will be passed to AHLLP under the SGEI Decision. It is the intention to provide AHLLP funding using SGEI. An overarching Deed of Entrustment between AHLLP and the Council will be used to govern any assistance the Council may provide to AHLLP for its provision of affordable housing and ensure compliance with SGEI where such assistance is not under the MEOP. In addition each scheme will require AHLLP and the Council to enter into a specific funding agreement for SGEI purposes and also where right to buy receipts are being utilised to ensure that the RTB receipts are used in accordance with the legislation, the Council’s agreement with the Secretary of State and for the purposes that they are intended.

- 9.5 In the same way that the Council has to resolve to make a loan, then LHICL and AHLLP, as separate legal entities and acting through either its Board of Directors or Executive Committee, will need to resolve to take the loan and to use it to purchase properties. In the case of AHLLP the loan will be classed as an Additional Loan which will require the agreement of both Members. There will need to be a loan agreement between the Council and the company / partnership formalising the terms of the advance and repayment of funds.

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10 Equality analysis

- 10.1 The provision of diverse, good quality and well-managed housing, with a mix of tenure and affordability, helps meet the needs of the wider community.
- 10.2 An increase in the available and accessible affordable housing allows the Council to provide assistance to those most in need within our community which is also in-line with the Local Plan.

11 Appendices

- 11.1 None.

12 Background papers

- 12.1
- Cabinet Report, April 2018 - Housing Development Update
<http://democracy.lewes-eastbourne.gov.uk/Data/Lewes%20District%20Council%20Cabinet/201804231430/Agenda/HUhwFr2frmnPrsZNS2EYrx82hUN2.pdf>